

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 55 (Sub-No. 773X)

CSX Transportation, Inc.– Abandonment Exemption – in Harlan County, Ky.

BACKGROUND

In this proceeding, CSX Transportation, Inc. (CSXT) filed a petition under 49 U.S.C § 10502 seeking exemption from the requirements of 49 U.S.C. § 10903 to abandon approximately 1.6 miles of rail line in Harlan County, Kentucky. The 1.6 miles of rail line proposed for abandonment extend from milepost 0MV 250.1, at the end of the line, to milepost 0MV 248.5 at the wye connecting to the CSXT Glidden Siding (the Line). A map depicting the Line in relationship to the area served is appended to this EA. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

CSXT states that the Line is referred to as the Merna Spur in the Northern Region, Louisville Division, CV Subdivision, Engineering Appalachian Division. Upon receipt of abandonment authority, CSXT intends to consummate the abandonment, reclassify the Line as spur track, and lease the spur track to JRL Coal, Inc (JRL). JRL has reopened a coal mine at the end of the Line and has entered into a Track Lease Agreement with CSXT. CSXT would operate over the spur track to serve JRL, the sole customer. CSXT states that the track and materials would be upgraded and all bridges and culverts would be left in place. CSXT does not intend to disturb any sub grade or sub grade structures or to remove any bridges.

ENVIRONMENTAL REVIEW

CSXT submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. CSXT served the environmental report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The

¹ The railroad's environmental and historic reports are available for viewing on the Board's website at www.stb.gov by going to "E-Library," selecting "Filings," and then

Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to CSXT, no local traffic has moved over the Line for at least two years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Because CSXT would continue to operate the Line under the Lease Agreement with JRL, CSXT states that the Line would not be salvaged.

The Natural Resources Conservation Service commented that no impact to prime farmland or farmland of statewide importance would be anticipated as a result of the proposed abandonment.

The U.S. Fish and Wildlife Service, Kentucky Field Office (USFWS) states that the proposed abandonment would not result in adverse effects to federally-listed species because the Line is existing and no new impacts are proposed. Because the Line would be leased to a surface coal mine operation, USFWS also states that it considers the actions of the mining operation to be an indirect effect of the proposed abandonment. Therefore, USFWS recommends that CSXT ensure that the mining operation and its use of the Line is in compliance with all applicable state and federal regulations. Accordingly, OEA recommends that a condition be imposed upon any decision granting abandonment authority requiring CSXT to consult with appropriate state and federal agencies to ensure that the surface coal mining operation is in compliance with all applicable state and federal regulations.

The U.S. Environmental Protection Agency, Region 4 stated that it had no comments or concerns about the proposed abandonment.

The U.S. Army Corps of Engineers, Nashville District (Corps) submitted a comment stating that it would review the information regarding the proposed abandonment provided by

CSXT and request additional information if needed. Therefore, OEA recommends that a condition be imposed upon any decision granting abandonment authority requiring CSXT to continue to consult with the Corps and comply with any reasonable requirements related to the Corps permitting process.

The National Geodetic Survey (NGS) commented that no geodetic survey markers are located within the area of the proposed abandonment. Therefore, no further consultation with NGS is necessary.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to USFWS and the Corps for their review and comment.

HISTORIC REVIEW

CSXT served the historic report on the Kentucky State Historic Preservation Officer (SHPO), pursuant to 49 C.F.R. § 1105.8(c). OEA has not heard from the State Historic Preservation Officer (SHPO) and therefore has not been able to consider the SHPO's opinion before determining if the rail line may be potentially eligible for listing on the National Register of Historic Places. Accordingly, we are recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Native American Graves Protection and Repatriation Act, Online Native American Consultation Database and the U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool,² to identify federally-recognized tribes which may have ancestral connections to the project area. The search indicated that the Eastern Band of Cherokee Indians may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to the Eastern Band of Cherokee Indians for its review and comment.

CONDITIONS

² U.S. National NAGPRA Program (<https://grantsdev.cr.nps.gov/Nagpra/NACD/>); U.S. Department of Housing and Urban Development (<https://egis.hud.gov/tat/Tribal.aspx>).

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. CSX Transportation, Inc. (CSXT) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. CSXT shall report back to the Office of Environmental Analysis regarding any consultations with the State Historic Preservation Officer, any other Section 106 consulting parties, and the public. CSXT may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.
2. CSX Transportation, Inc. shall consult with appropriate state and federal agencies to ensure that the surface coal mining operation is in compliance with all applicable state and federal regulations.
3. CSX Transportation, Inc. shall continue to consult with the U.S. Army Corps of Engineers (Corps) and comply with any reasonable requirements related to the Corps permitting process.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-55 (Sub-No. 773X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.gov.

Date made available to the public: September 15, 2017.

Comment due date: October 13, 2017.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment